at the present day would not be troubled by the later judgments against B, but would have to examine the judgment docket for the prior judgments against A, and then the execution books to determine whether these judgments were still enforceable.

These seems to be no valid reason why this should be the law. The voluntary grantee should stand in the shoes of his grantor, but when judgments against the later owner have been barred, prior judgments against his grantor should likewise be barred. So far as the ultimate purchaser for value is concerned there is at least as much reason for barring these earlier judgments, after the purchaser has held the land for ten years, and the equities of the judgment creditors of the original owner seem to be no greater than those of the judgment creditors of his devisee or heir.

The case is similar to that of the holder in due course of negotiable paper where the instrument was invalid between the original parties and has been transferred first to one who is not a holder for value and then to a holder in due course for value and without notice of the original infirmities of the instrument. In such case the situation of the first taker is analogous to that of the devisee of lands. They stand in the shoes of the former owners of the paper or the land. But the transfer for value of the negotiable instrument cuts off not only the equities that exist against the immediate transferror but also those against all prior holders. So it would seem that if the transfer of lands for value is to bar judgments against the immediate grantor after ten years, it should also bar judgments against prior owners.

It may indeed have been the intent of the revisors to attain this result, but it is difficult to so construe the language actually used. The situation seems to call for further action by the legislature. The desired result could be obtained by slightly changing the present section so that the portion in question might read as follows: "nor shall any suit be brought to enforce the lien of a judgment against lands which (since the date on which the judgment was docketed) have been conveyed . . . . . to a grantee for value unless the same be brought within ten years from the due recordation of the deed . . . . . to such grantee."

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COURSE OF DESCENTS—SECTION 5264, CODE OF 1919, AS AMENDED AND RE-ENACTED BY THE GENERAL ASSEMBLY OF 1922.—The following passed the General Assembly of Virginia during its last session:[1]

"1. Be it enacted by the General Assembly of Virginia, That section fifty-two hundred and sixty-four of the Code of Virginia be amended and re-enacted so as to read as follows:

Sec. 5264. Course of descents generally.—When any person having title to any real estate of inheritance shall die intestate as

[1] Acts of Assembly, 1922, p. ——

to such estate, it shall descend and pass in parcenary to such of his kindred, male and female, as are not alien enemies, in the following course:

First. To his children and their descendants.

Second. If there be no child, nor the descendant of any child then to his or her father *and mother, or the survivor.*

Third. If there be no father nor mother, then to his or her brothers and sisters, and their descendants.

Fourth. *If none such, then the whole shall go to the surviving consort of the intestate.*

Fifth. If none such then one moiety shall go to the paternal, the other to the maternal kindred, of the intestate, in the following course:

Sixth. First to the grandfather *and grandmother.*

Seventh. If none such, then to the great grandfathers, or great grandfather, *and great grandmothers, or great grandmother.*

Eighth. If none, then to the brothers and sisters of the grandfathers and grandmothers, and their descendants.

Ninth. And so on, in other cases, without end, passing to the nearest lineal ancestors, and the descendants of such ancestors.

Tenth. If there be neither maternal nor paternal kindred, the whole shall go to the kindred of the husband or wife, in the like course as if such husband or wife had died entitled to the estate."

This act materially alters the famous statute of descents which was the work of Thomas Jefferson and was originally enacted in 1785. The changes may be briefly outlined as follows:

1. If there be no children or other descendants of the decedent, the real estate, by the amendment, passes to his nearest lineal male *and female* ancestors *or the survivor,* and, if they be dead, then to the descendants of such male and female ancestors. Heretofore, the land, if the intestate had no descendants, passed "to his nearest lineal male ancestor, or if he be dead, to the nearest lineal female ancestor in the same degree and (along with her) to the descendants of such male and female ancestors".[2] This change makes the nearest lineal female ancestor a co-parcener of the nearest lineal male ancestor of the same degree, thus placing women upon an equal basis with men.

2. The surviving consort now inherits under the fourth subdivision. Before the amendment, such a spouse could not take unless all the descendants and the maternal and paternal kindred of the testator were dead. The result is that, if the testator has no descendants and no father, mother, brothers and sisters, or descend-

[2] 2 MINOR, REAL PROPERTY, § 992.

ants of such brothers and sisters, the surviving husband or wife is the heir.

3. *The subdivision of the former section providing for the decedent's uncles and aunts and their descendants has been omitted by the General Assembly.* Subdivision sixth of the amendatory act gives the property to the grandfather and grandmother.[3] Subdivision seventh then follows: "If none such, then to the great grandfathers, or great grandfather, and great grandmothers, or great grandmother." [4] According to the manifest theory of the course of descents upon which the scheme of the statute is based, between these two subdivisions a provision should have been inserted running: "If none, then to the uncles and aunts, on the same side, and their descendants",[5] which would be analogous to subdivision sixth of the section as it stood before the amendment. No reason seems to exist for omitting or postponing such close relatives of the decedent. The omission must have been inadvertent.

However, it would appear that the section as it stood before amendment cannot be invoked to supply this oversight. It is well settled that when an amendatory act provides that the original statute shall "be amended and re-enacted so as to read as follows" and thereupon repeats some of the provisions of the amended statute and omits others, all the provisions of the original statute which do not appear in the amendatory act are thereby annulled and thereafter are of no force and effect.[6] Thus, in *Planer Co.* v. *Flournoy*,[7] an act of 1890 provided that every charter thereafter granted under Code § 1145 and every act of incorporation thereafter passed by the General Assembly should be inoperative until the payment of a certain fee Later, the act was amended and re-enacted "so as to read as follows", omitting the words "granted under Code § 1145". The plaintiff, incorporated under Code § 1145, refused to pay the fee. The court was of opinion that the portion of the act of 1890 that was omitted by the amendatory act had been thereby annulled. The same principle is laid down in *Somers* v. *Commonwealth*.[8] It was also held in the former case [9] that the testimony of the draftsman was inadmissible to show that the omission of the words was inadvertent.

The omitted uncles and aunts and their descendants would, it seems, take under subdivision ninth, which is a provision showing the general scheme of descent and covering all cases of maternal and paternal kindred not embraced in the prior subdivisions. But this would make them inferior to the great grandparents and the brothers

[3] Compare with subdivision fifth of the original § 5264.
[4] Compare with subdivision seventh of the original § 5264.
[5] See subdivision sixth of the original § 5264.
[6] People *v.* Supervisors, 67 N. Y. 109, 23 Am. Rep. 94 (1876); Campbell *v.* Youngson, 80 Neb. 322, 114 N. W. 415 (1907); U. S. *v.* Prentis, 182 Fed. 894, order affirmed in Chomel *v.* U. S., 192 Fed. 117, *certiorari* denied 233 U. S. 723 (1911); State *v.* Ingersoll, 17 Wis. 631 (1864); BLACK, INTERPRETATION OF LAWS, § 168.
[7] 88 Va. 1029, 14 S. E. 976 (1892).
[8] 97 Va. 759, 33 S. E. 381 (1899).
[9] Planer Co. *v.* Flournoy, *supra*.

and sisters of the grandparents and their descendants, while according to the general scheme they should take immediately after the grandparents of the decedent.

It is submitted that this omission has destroyed the symmetry of this great statute of descents and that it should be corrected by the General Assembly with the least possible delay.

E. W.

CURTESY AND DOWER—RECENT LEGISLATIVE CHANGES IN THE LAW OF.—In keeping with the spirit of the times in levelling all barriers in the way of absolute equality between man and woman, the General Assembly at its recent session enacted two statutes that attract our special attention. The law of curtesy and dower, which, with minor exceptions, has remained unchanged for centuries, has now been radically altered to meet the demand for equal rights. The statutes read as follows:

"Be it enacted by the General Assembly of Virginia, That a surviving husband shall, if the wife die testate, be entitled to curtesy in one-third, and if she die intestate and without issue, of this or any former marriage, in all of the real estate, (except her equitable separate estate where the instrument creating the same otherwise provides) whereof his wife, or any other to her use, was at any time during the coverture seized of an estate of inheritance, unless his right to curtesy shall have been lawfully barred or relinquished, and the fact that the husband conveyed or caused the real estate to be conveyed to the wife shall not bar his curtesy therein, nor shall it be a necessary requisite to curtesy that the wife shall have had a child born alive during coverture."

"Be it enacted by the General Assembly of Virginia, That section five thousand one hundred and seventeen of the Code of Virginia be amended and re-enacted to read as follows:

"Sec. 5117. Of what a widow shall be endowed.—A widow shall, *if her husband die testate,* be endowed of one-third, *and if he die intestate and without issue of this marriage, or of a former marriage,* endowed of all the real estate whereof her husband, or any other to his use, was, at any time during coverture, seized of an estate of inheritance, unless her right to such dower shall have been lawfully barred or relinquished."

The result of these statutes, in a word, is to make the law as to curtesy and dower in every respect the same. There follows an enumeration of the effects it will have upon the present law.

(1) A distinction is made between the spouses dying testate and intestate. In case the husband dies testate the law of dower remains unaltered, but if the wife leaves a will the curtesy of the husband is reduced to a one-third life estate. In this case the law of dower is made to apply to curtesy as well.

(2) A distinction is made in the case of intestacy between the